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**BEFORE THE BOARD OF MEDICAL EXAMINERS
FOR THE STATE OF ARIZONA**

In the Matter of

ERIC MILLER, M.D.

Holder of License No. 19279
For the Practice of Medicine
In the State of Arizona

Case No. MD-01-0228

**CONSENT AGREEMENT FOR
PROBATION**

CONSENT AGREEMENT

By mutual agreement and understanding, between the Arizona Board of Medical
Examiners ("Board") and Eric Miller, M.D. ("Respondent"), the parties agreed to the following
disposition of this matter at the Board's public meeting on October 11, 2001.

1. Respondent acknowledges that he has read and understands this Consent
Agreement and the stipulated Findings of Fact, Conclusions of Law and Order. Respondent
acknowledges that he understands he has the right to consult with legal counsel regarding
this matter and has done so or chooses not to do so.

2. Respondent understands that by entering into this Consent Agreement for the
issuance of the foregoing Order, he voluntarily relinquishes any rights to a hearing or judicial
review in state or federal court on the matters alleged, or to challenge this Consent
Agreement and the Order in its entirety as issued by the Board, and waives any other cause
of action related thereto or arising from said Order.

3. Respondent acknowledges and understands that this Consent Agreement and the
Order will not become effective until approved by the Board and signed by its Executive
Director.

4. All admissions made by Respondent are solely for final disposition of this matter
and any subsequent related administrative proceedings or civil litigation involving the Board


and Respondent. Therefore, said admissions by Respondent are not intended or made for any other use, such as in the context of another state or federal government regulatory agency proceeding, civil or criminal court proceeding, in the State of Arizona or any other state or federal court.

5. Respondent acknowledges and agrees that, although the Consent Agreement has not yet been accepted by the Board and issued by the Executive Director, upon signing this agreement, and returning this document (or a copy thereof) to the Board's Executive Director, Respondent may not revoke his acceptance of the Consent Agreement and Order.


Respondent may not make any modifications to the document. Any modifications to this original document are ineffective and void unless mutually approved by the parties.

6. Respondent further understands that this Consent Agreement and Order, once approved and signed, shall constitute a public record document that may be publicly disseminated as a formal action of the Board.

7. If any part of the Consent Agreement and Order is later declared void or otherwise unenforceable, the remainder of the Order in its entirety shall remain in force and effect.


Eric Miller, M.D.

Reviewed and accepted this 9th
day of October, 2001.


Stephen W. Myers, Attorney at Law
(Counsel For Dr. Eric Miller)

Reviewed and approved as to
form this 9th day of October, 2001.

FINDINGS OF FACT

1. The Board is the duly constituted authority for the regulation and control of the practice of allopathic medicine in the State of Arizona.

2. Respondent is the holder of license number 19279 for the practice of allopathic medicine in the State of Arizona.

3. The Board initiated case number MD-01-0228 upon receiving notification pursuant to A.R.S. § 32-1451(B) that Respondent was denied hospital reappointment for quality of care issues.

4. The health care institution also denied hospital reappointment because Respondent failed to obtain American Board of Anesthesiology certification.

5. In December 1997, the health institution's Executive, Anesthesia, and Surgery Committees reviewed Respondent's care of three patients. The Committees concluded that Respondent's responses to the committee were inappropriate for his level of experience and that all three cases demonstrated deficiencies in anesthesia care and management, with no apparent trend. The health care institution also sent the cases to two outside consultants, who concluded that all three cases fell below the standard of care.

6. As a result of the reviews, the health care institution's Medical Executive Committee required Respondent to complete ACLS training prior to performing any further cases, and upon completion, Respondent could only perform anesthesia under direct supervision. The Medical Executive Committee also required Respondent to acquire Board certification by August 1999.

7. In a letter dated August 24, 1999, the health care institution notified Respondent that he would not be reappointed to the medical staff because he failed to acquire Board certification by August 10, 1999.

8. Respondent, in a letter dated April 18, 2001, stated the quality of care issues occurred while he was ill and maintaining a heavy workload. Respondent informed the Board that he has changed his practice since these incidents.

9. Richard Zonis, M.D., Chief Medical Consultant, reviewed the file and concluded that Respondent failed to meet the standard of care in providing anesthesia to the three patients.

CONCLUSIONS OF LAW

1. The Board possesses jurisdiction over the subject matter hereof and over Respondent.

2. The conduct and circumstances described above in paragraphs 3 to 9 constitute unprofessional conduct pursuant to A.R.S. § 32-1401(25)(q)("[a]ny conduct or practice which is or might be harmful or dangerous to the health of the patient or the public.")

ORDER

IT IS HEREBY ORDERED THAT:

1. Respondent is placed on probation for two years with the following terms and conditions:

(a) Respondent shall undergo an anesthesiologist evaluation within six months, offered by the Physician Assessment and Clinical Education Program (PACE) at the University of California, San Diego, at Respondent's own expense. Any and all reports, assessments or other documents generated by PACE shall be forwarded by PACE to the Board for review. The Board retains jurisdiction and may initiate new action based upon the results of the PACE evaluation. Any such new action initiated by the Board, however, shall not be based in whole or in part upon

Respondent's care of the three patients referred to in paragraph 4 of the Findings of Fact set forth above.

(b) Respondent shall comply with any recommendations made by the PACE program.

(c) If the PACE evaluation results in a recommendation for remediation, then within 6 months of the PACE evaluation and completion of any recommended remediation, Respondent shall have 15 cases supervised by Board approved anesthesiologists, with reports on each case forwarded to the Board regarding his preoperative, operative, and postoperative skills. Respondent shall pay all costs associated with the supervision and reports.

(d) After one year, Respondent may submit a written request to the Executive Director requesting that the Board terminate the probationary period. The Board's decision to terminate will be based on Respondent's compliance with all probationary terms.

2. This Order is the final disposition of case number MD-01-0228.

3. The Board retains jurisdiction and may initiate a new action based upon any violation of this Order.

DATED and effective this 12th day of October, 2001.

BOARD OF MEDICAL EXAMINERS
OF THE STATE OF ARIZONA

(SEAL)

By Claudia Foutz
CLAUDIA FOUTZ
Executive Director
TOM ADAMS
Deputy Director

ORIGINAL of the foregoing filed this
12 day of October, 2001, with:

The Arizona Board of Medical Examiners
9545 E. Doubletree Ranch Road
Scottsdale, AZ 85258

EXECUTED COPY of the foregoing mailed by Certified
Mail this 12 day of October, 2001, to:

Stephen W. Myers
Myers & Jenkins
3003 North Central Ave. Ste. 1900
Phoenix, AZ 85012

EXECUTED COPY of the foregoing mailed this
12 day of October, 2001, to:

Eric J. Miller, M.D.
5631 W. Aster Drive
Glendale, AZ 85304

EXECUTED COPY of the foregoing
hand-delivered to each of the following
this 12 day of October, 2001, to:

Christine Cassetta, Assistant Attorney General
Sandra Waitt, Management Analyst
Lynda Mottram, Compliance Officer
Lisa Maxie-Mullins, Legal Coordinator (Investigation File)
Arizona Board of Medical Examiners
9545 E. Doubletree Ranch Road
Scottsdale, AZ 85258

